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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8086 OF 2007

Jagdish Keshiram Wange ... Petitioner

V/s

State of Maharashtra & ors. ... Respondents

Mr. A.G.Damle i/by Mr.V.K.Damle for the petitioner.

Mr. V.A.Gangal with Mr.R.D.Rane, Govt. Pleader for respondent Nos.1 and 2.

Mr. R.K.Mendadkar for the respondent No.3.

Mr. A.A.Joshi with Mr.J.S.Siddiqui i/by A.V.Jain & Associates for the respondent No.4.

CORAM: J.N.PATEL AND
SMT. NISHITA MHATRE, JJ.

DATED: 10TH DECEMBER, 2007.

P.C.:

1. The petitioner is challenging the order dated 18.9.2007 passed by the Scheduled Tribe Certificate Scrutiny Committee, Konkan Division, Thane, wherein the caste certificate of the petitioner Jagdish Kashiram Wange, who claims to belong to caste Malhar Koli which is described as Scheduled Tribe, has been permitted to be withdrawn alongwith cancelling and confiscating the caste certificate bearing No.MST/SR/ST/145/2005 dated

24.10.2005.

2. It is the case of the petitioner that, he alongwith others belong to Malhar Koli and are descendants of late Smt.Jamnabai Baburao Wange. They were cultivating agricultural land situated at Village Valnai, Tal. Borivali, Mumbai. It is the case of the petitioner that he alongwith others entered into an agreement of sale dated 4.9.1980 in respect of agricultural land which was followed by suplimentary agreement dated 29.6.1995 with respondent No.3. As they belong to caste Malhar Koli being a Scheduled Tribe, such transfer of land from the non-tribal to tribal is prohibited. This led to dispute between the parties and proceedings were initiated before the Sub-Divisional Officer (B.S.D.) for restoration of land, which came to be rejected on the ground that the caste claim of the petitioner has been cancelled and confiscated by the Committee under the impugned order.

3. The only grievance of the petitioner before this Court is that, the impugned order does not take into consideration the issues germane for determination as to whether the petitioner belongs to caste Malhar Koli or not but the Committee has placed reliance on various affidavits which according to the petitioners were

obtained from the respondent builder on certain misrepresentation and, therefore, the impugned order deserves to be quashed and set aside and the Committee should be directed to examine the caste claim of the petitioner independent of the controversial affidavits obtained from the petitioner and his relatives and should directly adhere to the requirements necessary for examining the caste claim of the petitioner.

4. We have gone through the impugned order which has taken into consideration various caste certificates and documents placed on record by the parties in support of the caste claim. It has also taken into consideration the documents relating to the transaction of the land executed between the parties right from 4.9.1980 onwards including controversial affidavits.

5. Whatever may be the object of the petitioner in his mind. It is expected of the Committee to decide the caste claim of the petitioner in objective manner without being influenced by the affidavits filed by the parties. We may mention here that the conduct of the petitioner is not free from doubt as is evident from the observations made by the Committee in the impugned

order. But in order to give a fair opportunity to the petitioner, we are inclined to quash and set aside the impugned order and direct the Committee to examine the caste claim of the petitioner on the parameters prescribed by the Supreme Court in the case of **Madhuri Patil v/s Additional Commissioner ((1997) SCC page 437)** and onwards and as per the provisions of the Maharashtra Scheduled Castes, Scheduled Tribes, De-notified Tribes (Vimukta Jatis), Nomadic Tribes, Other Backward Classes and Special Backward Category (Regulation of issuance and verification of) Caste Certificate Act, 2000.

6. We expect that the petitioner should extend all necessary co-operation to the Committee in getting his caste claim verified. We direct the petitioner to appear before the Committee on 10.1.2008.

7. We expect the Caste Scrutiny Committee to take a decision in the matter as expeditiously as possible and preferably within a period of six months from the date the petitioner appears before the Committee.

8. Needless to say that the respondents will be at liberty to contest the matter before the Committee as

they sought permission to do so, during the earlier hearing, to participate in the proceeding. The Caste Scrutiny Committee would take the decision in the matter without being influenced by its earlier order where it has simply returned the caste certificate of the petitioner without taking a decision in the matter.

9. Petition disposed of accordingly.

(J.N. PATEL, J.)

(SMT. NISHITA MHATRE, J.)